



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0083/1
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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 22**

May 20, 2003 - Offered by COMMITTEE ON EDUCATION, ETHICS AND ELECTIONS.

1 **AN ACT** *to repeal* 19.42 (4g) and (4r); *to renumber and amend* 19.58 (1); *to*
2 *amend* 11.25 (2) (b) and 19.58 (2); *to repeal and recreate* 19.42 (3m), 19.45
3 (13), 19.49 (1m), 19.49 (5) (a), 19.49 (5) (b), 19.53 (6), 19.535, 19.59 (1) (br), 19.59
4 (7) (a), 19.59 (7) (b), 19.59 (8) (c) and 19.59 (8) (cm) and (cn); *to create* 19.42 (3s),
5 19.579 and 19.58 (1) (b) of the statutes; and *to affect* 2001 Wisconsin Act 109,
6 section 9115 (2y) (b) and 2001 Wisconsin Act 109, section 9415 (1zx); **relating**
7 **to:** official action in return for providing or withholding political contributions,
8 services, or other things of value and providing a penalty.

Analysis by the Legislative Reference Bureau

Currently, no person may offer or give to a state public official, including a member of the legislature, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions, or judgment, or could reasonably be considered a reward for any official action or inaction on the part of the state public official.

This substitute amendment provides, in addition, that no state or local public official or candidate for state or local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of any person.

Violators are subject to a forfeiture (civil penalty) of not more than \$5,000 for each violation, and are also subject to a forfeiture in an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained, or if no political contribution, service, or other thing of value was obtained, an amount equal to the maximum contribution that an individual is permitted to make to a candidate for the office sought or held by the official, whichever amount is greater. Intentional violators are guilty of a felony and are subject to a fine of not more than \$10,000 or imprisonment for not more than three years and six months or both.

The substitute amendment also provides that, if the Ethics Board refuses or otherwise fails to authorize an investigation or a district attorney fails to initiate an investigation with respect to any violation of the prohibition created by the substitute amendment within 30 days after receiving a verified complaint alleging such a violation, the person making the complaint may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county where the violation is alleged to occur. The attorney general or the district attorney for the adjacent county may then initiate a prosecution. The substitute amendment provides that no complaint alleging a violation of the prohibition contained in the substitute amendment may be filed during the period beginning 120 days before a general or spring election or the date that a special election is ordered and ending on the date of that election against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 11.25 (2) (b) of the statutes is amended to read:
2 11.25 **(2)** (b) Notwithstanding par. (a), a registrant may accept contributions
3 and make disbursements from a campaign depository account for the purpose of
4 making expenditures in connection with a campaign for national office; for payment
5 of civil penalties incurred by the registrant under this chapter but not under any
6 other chapter; or for payment of the expenses of nonpartisan campaigns to increase

1 voter registration or participation. Notwithstanding par. (a), a personal campaign
2 committee or support committee may accept contributions and make disbursements
3 from a campaign depository account for payment of inaugural expenses of an
4 individual who is elected to state or local office. If such expenses are paid from
5 contributions made to the campaign depository account, they are reportable under
6 s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s.
7 11.06 (1). If contributions from the campaign depository account are used for such
8 expenses, they are subject to s. 11.26.

9 **SECTION 2.** 19.42 (3m) of the statutes, as created by 2001 Wisconsin Act 109,
10 is repealed and recreated to read:

11 19.42 (3m) "Candidate," except as otherwise provided, has the meaning given
12 in s. 11.01 (1).

13 **SECTION 3.** 19.42 (3s) of the statutes is created to read:

14 19.42 (3s) "Candidate for local public office" means any individual who files
15 nomination papers and a declaration of candidacy under s. 8.21 or who is nominated
16 at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election
17 as a local public official or any individual who is nominated for the purpose of
18 appearing on the ballot for election as a local public official through the write-in
19 process or by appointment to fill a vacancy in nomination and who files a declaration
20 of candidacy under s. 8.21.

21 **SECTION 4.** 19.42 (4g) and (4r) of the statutes, as created by 2001 Wisconsin Act
22 109, are repealed.

23 **SECTION 5.** 19.45 (13) of the statutes, as created by 2001 Wisconsin Act 109, is
24 repealed and recreated to read:

1 19.45 (13) No state public official or candidate for state public office may,
2 directly or by means of an agent, give, or offer or promise to give, or withhold, or offer
3 or promise to withhold, his or her vote or influence, or promise to take or refrain from
4 taking official action with respect to any proposed or pending matter in consideration
5 of, or upon condition that, any other person make or refrain from making a political
6 contribution, or provide or refrain from providing any service or other thing of value,
7 to or for the benefit of any person.

8 **SECTION 6.** 19.49 (1m) of the statutes, as created by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 19.49 (1m) No complaint alleging a violation of s. 19.45 (13) may be filed during
11 the period beginning 120 days before a general or spring election, or during the
12 period commencing on the date of the order of a special election under s. 8.50, and
13 ending on the date of that election, against a candidate who files a declaration of
14 candidacy to have his or her name appear on the ballot at that election.

15 **SECTION 7.** 19.49 (5) (a) of the statutes, as affected by 2001 Wisconsin Act 109,
16 is repealed and recreated to read:

17 19.49 (5) (a) Except as provided in par. (b), no action may be taken on any
18 complaint that is filed later than 3 years after a violation of this subchapter or subch.
19 III of ch. 13 is alleged to have occurred.

20 **SECTION 8.** 19.49 (5) (b) of the statutes, as created by 2001 Wisconsin Act 109,
21 is repealed and recreated to read:

22 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint
23 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such
24 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

1 **SECTION 9.** 19.53 (6) of the statutes, as affected by 2001 Wisconsin Act 109, is
2 repealed and recreated to read:

3 **19.53 (6)** An order requiring the accused to forfeit not more than \$500 for each
4 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of
5 any other provision of this subchapter, or not more than the applicable amount
6 specified in s. 13.69 for each violation of subch. III of ch. 13. If the board determines
7 that the accused has realized economic gain as a result of the violation, the board
8 may, in addition, order the accused to forfeit the amount gained as a result of the
9 violation. In addition, if the board determines that a state public official has violated
10 s. 19.45 (13), the board may order the official to forfeit an amount equal to the amount
11 or value of any political contribution, service, or other thing of value that was
12 wrongfully obtained. If the board determines that a state public official has violated
13 s. 19.45 (13) and no political contribution, service or other thing of value was
14 obtained, the board may order the official to forfeit an amount equal to the maximum
15 contribution authorized under s. 11.26 (1) for the office held or sought by the official,
16 whichever amount is greater. The attorney general, when so requested by the board,
17 shall institute proceedings to recover any forfeiture incurred under this section or s.
18 19.545 which is not paid by the person against whom it is assessed.

19 **SECTION 10.** 19.535 of the statutes, as created by 2001 Wisconsin Act 109, is
20 repealed and recreated to read:

21 **19.535 Enforcement.** If the board receives a verified complaint alleging a
22 violation of s. 19.45 (13), the board shall, within 30 days after receipt of the
23 complaint, either authorize an investigation of the allegations contained in the
24 complaint under s. 19.49 (3) or dismiss the complaint. If the board dismisses the
25 complaint, with or without investigation, the board shall promptly notify the

1 complainant in writing. Upon receiving notification of the dismissal, the
2 complainant may then file the complaint with the attorney general, the district
3 attorney for the county where a violation is alleged to occur or the district attorney
4 for a county that is adjacent to that county. The attorney general or district attorney
5 may then investigate the allegations contained in the complaint and commence a
6 prosecution.

7 **SECTION 11.** 19.579 of the statutes is created to read:

8 **19.579 Civil penalty.** Any person who violates s. 19.45 (13) may be required
9 to forfeit not more than \$5,000.

10 **SECTION 12.** 19.58 (1) of the statutes is renumbered 19.58 (1) (a) and amended
11 to read:

12 19.58 (1) (a) Any person who intentionally violates any provision of this
13 subchapter except s. 19.45 (13) or 19.59 (1) (br), or a code of ethics adopted or
14 established under s. 19.45 (11) (a) or (b), shall be fined not less than \$100 nor more
15 than \$5,000 or imprisoned not more than one year in the county jail or both.

16 **SECTION 13.** 19.58 (1) (b) of the statutes is created to read:

17 19.58 (1) (b) Any person who intentionally violates s. 19.45 (13) or 19.59 (1) (br)
18 is guilty of a Class I felony.

19 **SECTION 14.** 19.58 (2) of the statutes is amended to read:

20 19.58 (2) The ~~penalty penalties~~ under sub. (1) ~~does do~~ not limit the power of
21 either house of the legislature to discipline its own members or to impeach a public
22 official, or limit the power of a department to discipline its state public officials or
23 employees.

24 **SECTION 15.** 19.59 (1) (br) of the statutes, as created by 2001 Wisconsin Act 109,
25 is repealed and recreated to read:

1 19.59 (1) (br) No local public official or candidate for local public office may,
2 directly or by means of an agent, give, or offer or promise to give, or withhold, or offer
3 or promise to withhold, his or her vote or influence, or promise to take or refrain from
4 taking official action with respect to any proposed or pending matter in consideration
5 of, or upon condition that, any other person make or refrain from making a political
6 contribution, or provide or refrain from providing any service or other thing of value,
7 to or for the benefit of any person.

8 **SECTION 16.** 19.59 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not
11 more than \$1,000 for each violation, and, if the court determines that the accused has
12 violated sub. (1) (br), the court may, in addition, order the accused to forfeit an
13 amount equal to the amount or value of any political contribution, service, or other
14 thing of value that was wrongfully obtained.

15 **SECTION 17.** 19.59 (7) (b) of the statutes, as created by 2001 Wisconsin Act 109,
16 is repealed and recreated to read:

17 19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not
18 more than \$1,000 for each violation, and, if the court determines that a local public
19 official has violated sub. (1) (br) and no political contribution, service or other thing
20 of value was obtained, the court may, in addition, order the accused to forfeit an
21 amount equal to the maximum contribution authorized under s. 11.26 (1) for the
22 office held or sought by the official, whichever amount is greater.

23 **SECTION 18.** 19.59 (8) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
24 is repealed and recreated to read:

1 19.59 (8) (c) If the district attorney fails to commence an action to enforce sub.
2 (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the
3 district attorney refuses to commence such an action, the person making the
4 complaint may petition the attorney general to act upon the complaint. The attorney
5 general may then bring an action under par. (a) or (b), or both.

6 **SECTION 19.** 19.59 (8) (cm) and (cn) of the statutes, as created by 2001
7 Wisconsin Act 109, are repealed and recreated to read:

8 19.59 (8) (cm) No complaint alleging a violation of sub. (1) (br) may be filed
9 during the period beginning 120 days before a general or spring election, or during
10 the period commencing on the date of the order of a special election under s. 8.50, and
11 ending on the date of that election, against a candidate who files a declaration of
12 candidacy to have his or her name appear on the ballot at that election.

13 (cm) If the district attorney for the county in which a violation of sub. (1) (br)
14 is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br),
15 the district attorney shall, within 30 days after receipt of the complaint, either
16 commence an investigation of the allegations contained in the complaint or dismiss
17 the complaint. If the district attorney dismisses the complaint, with or without
18 investigation, the district attorney shall notify the complainant in writing. Upon
19 receiving notification of the dismissal, the complainant may then file the complaint
20 with the attorney general or the district attorney for a county that is adjacent to the
21 county in which the violation is alleged to occur. The attorney general or district
22 attorney may then investigate the allegations contained in the complaint and
23 commence a prosecution.

24 **SECTION 20.** 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read:

1 [2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section
2 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections
3 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the
4 renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes,
5 the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6),
6 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9), ~~19.49 (5), 19.59 (7)~~, and
7 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c),
8 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05
9 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2),
10 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m)
11 (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3),
12 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b),
13 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2),
14 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.),
15 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10),
16 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31
17 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a),
18 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2)
19 (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60
20 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e)~~, 20.510 (1) (q), 25.42, 71.08
21 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05
22 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m),
23 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m),
24 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6)
25 (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.24

1 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m),
2 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m), 11.26
3 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.),
4 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j),
5 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), ~~19.42 (3m), (4g)~~
6 ~~and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59~~
7 ~~(8) (em) and (en)~~, 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and 806.04
8 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v), 9244
9 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the treatment
10 of those provisions by this act is void.

11 **SECTION 21.** 2001 Wisconsin Act 109, section 9415 (1zx) is amended to read:

12 [2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED
13 CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50
14 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50
15 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05
16 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), and 11.50
17 (9), ~~19.49 (5), and 19.59 (7)~~ of the statutes, the amendment of sections 5.02 (13), 5.05
18 (2), 7.08 (2) (c), 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05
19 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e),
20 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),
21 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5),
22 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a)
23 and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12),
24 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26
25 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9)

1 (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)
2 (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)
3 (b), 11.50 (2) (a), 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50
4 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m),
5 11.50 (11) (e), 11.60 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e)~~, 20.510
6 (1) (q), and 25.42 of the statutes, the repeal and recreation of sections 11.05 (9) (title)
7 and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m), 11.01
8 (12w), (13) and (14), 11.01 (16) (a) 3., 11.01 (17g) and (17r), 11.05 (1) (b), 11.05 (2) (b),
9 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm),
10 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8)
11 (am), 11.21 (17), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as)
12 and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9)
13 (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9),
14 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm),
15 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14),
16 11.60 (3r), ~~19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59~~
17 ~~(1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn)~~, and 806.04 (11m) of the statutes and
18 SECTIONS 9115 (2v) and (2w) and 9315 (2v) and (2w) of this act take effect on July 1,
19 2003.

20

(END)